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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,753	03/30/2001	Kenneth Hung-Yi Chang	TI-31768	9031

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EXAMINER

CASIANO, ANGEL L

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,753

Applicant(s)

CHANG, KENNETH HUNG-YI

Examiner

Angel L. Casiano

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9, 11, 20-30 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 11, 20-30 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office Action is in response to Amendment dated 12 April 2004.
2. Claims 1-6, 9, 11, 20-30, and 33 are pending in the application.
3. Acknowledgement is made of priority claim under 35 U.S.C. 119(e)(1) of U.S. provisional application filed 3 April 2000.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 April 2004 has been entered.

Specification

5. Previous Objection to the Abstract has been overcome with the corrections filed in the present Amendment.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2182

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6, 9, 11, 20-22, 25-30, and 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, “determining *whether a data processor in the system* satisfies the condition information for the retrieved program” and further states “responsive to the determining step, downloading the program *to the data processor that satisfies* said condition”. Examiner respectfully submits that the claim is unclear, since the “determining” step appears to include a plurality of *data processors* in the system, but only “a data processor in the system” is disclosed. In the Remarks, applicant argues that “claim 1 reads on both a system that includes one data processor, and also on a system that includes a plurality of data processors”. Examiner acknowledges that this interpretation is applicable to claim 1, however, appropriate language should be used in order to particularly and distinctly claim this limitation. Specifically, while “a data processor in a system” is recited, the claim does not particularly indicate that it is generic to both a single processor system and to a system having multiple data processors (i.e. “at least one data processor”).

Claims 2-6, 9, 11, and 20-22 depend directly or indirectly from claim 1 and are therefore rejected under the same basis.

Art Unit: 2182

8. Claims 25-30 and 33 recite the limitation "system" in reference to claim 24. However, claim 24 recites "apparatus". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 6, 9, 11, 21-24, 28-29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [US 6,282,711 B1] in view of Bretscher [US 2001/0039569 A1].

Regarding claim 1, Halpern et al. teaches a method (see Abstract) of downloading a program to a data processor. The method found in the cited reference provides (see col. 8, lines 33-34) the program (see col. 3, line 5) in an executable file (see col. 7, lines 52-54) together with information (see col. 3, lines 4-7, 21-22) indicating a condition (inherent, col. 6, line 48) needed (see "required", Abstract) for executing the file. Based on the information (see Abstract; col. 5, lines 50-55) disclosed by the reference, the method downloads (see col. 6, lines 18, 59; col. 9, lines 48-49; col. 10, lines 46-47) the program to a data processor, which satisfies condition information. The reference, however, does not explicitly teach the step of "responsive to a *determination step*, downloading the program to the data processor that satisfies" a "*platform*

Art Unit: 2182

requirement". Regarding this limitation, Bretscher teaches a method where it is determined, based on platform requirements (see "type and capacity"), to download a program (see "application") to a data processor (see [0055]). One of ordinary skill in the art would have been motivated to combine the cited disclosures in order to implement a method for downloading a program to a data processor in a system having processors, which are "not homogeneous" (see Bretscher). Therefore, the combination of references would have provided a method for processing "real-time applications" (see Bretscher) taking into account the processor's "type" and "capacity".

As for claim 2, the cited art (Halpern et al.) does not expressly teach configuring a data processor *using the configuration information*. Nonetheless, the cited art does teach configuring the program sent to a processor (see "custom configured", Abstract). The cited art also teaches data necessary for downloading the program (see Abstract). Therefore, this information clearly teaches a condition necessary for the method in the prior art. Accordingly, by configuring the cited data, it would have been obvious to one of ordinary skill in the art that the processor receiving the data is configured as well.

In consideration of claim 3, the cited prior art (Halpern et al.) does not teach a selection of a data processor using the "platform requirement". Regarding this limitation, Bretscher teaches a method where it is determined, based on *platform requirements* (see "type and capacity"), to download a program (see "application") to a data processor (see [0055]).

Art Unit: 2182

Considering claim 4, the cited prior art does not mention a COFF executable file having the program and non-program information. However, Halpern et al. clearly exposes providing an executable file for downloading (see Abstract; col. 4, lines 11-14; col. 7, lines 52-54; col. 10, lines 20-22). Therefore, the cited prior art teaches providing the executing file, although it does not specify the file as COFF.

As for claim 6, Halpern et al. teaches providing an executable file for downloading (see col. 4, lines 11-14; Abstract). The download, as disclosed by Halpern et al. includes the program itself as well as all the necessary information for executing the file (see col. 3, lines 1-7). Nonetheless, the determination of condition information for the method disclosed by Halpern et al. occurs at server level (see col. 3, lines 44-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the information regarding a condition (non-program) for the program in the executable file is accessible to the user, but not downloaded.

In consideration of claim 9, this constitutes an example of condition information associated with the program. Regarding configuration information, Halpern et al. teaches providing required (necessary) information for the program (see "required", Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that information related to "set up parameters" (configuration) would have been included by Halpern et al. as necessary information for the execution of the program.

Art Unit: 2182

In consideration of claim 11, the cited prior art explicitly teaches converting input information (see “user’s inputs”, Abstract) into condition (non-program) information. The cited method provides the program in the executable file (see col. 7, lines 52-54) integrated with information indicative of a condition (inherent, col. 6, line 48; see “required”, Abstract).

As for claim 21, Halpern et al. teaches a method where a single executable file is produced (see Abstract). The disclosure by Halpern et al. provides (non-program) information (see col. 3, lines 4-7, 21-22) indicative of a necessary condition (inherent, col. 6, line 48; see “required”, Abstract) for executing the program. This information is integrated with the program in the single executable file (see col. 3, lines 1-7).

As for claim 22, the disclosure by Halpern et al. provides information (see col. 3, lines 4-7, 21-22) indicative of a necessary (non-program) condition (inherent, col. 6, line 48; see “required”, Abstract) for executing a program. This information is integrated with the program in an executable file (see col. 3, lines 1-7), which includes the necessary information as well as the program itself. This executable file is stored in a file storage facility.

Claim 23 is directed to the *data processing apparatus* for the implementation of the method, as disclosed in previous claims. The prior art cited in the present Office action teaches or suggests the limitations corresponding to the claimed method. Accordingly, claim 23 is rejected under the same rationale.

Art Unit: 2182

Claim 24 is directed to the *data processing system* for the implementation of the apparatus, as disclosed in previous claims. The prior art cited in the present Office action teaches or suggests the limitations corresponding to the claimed method. Accordingly, claim 24 is rejected under the same rationale.

In consideration of claim 28, it constitutes types of processors that one of ordinary skill in the art would have been motivated to use in the prior art system. Microprocessors and digital signal processors are well known in the art.

As for claim 29, the cited art does not teach a *third* data processor coupled to the first data processor. Nonetheless, the cited system is oriented to a processing network, such as the Internet (see col. 3, line 1). Therefore, it would have been obvious to one of ordinary skill in the art that a third processor would have been coupled to the first in order to constitute a network, as disclosed by Halpern et al.

As for claim 33, the cited prior art does not expressly teach configuring a data processor based on condition information. However, the cited prior art does teach configuring the program sent to a processor by a first processor (see “server”, “client”, “custom configured”, Abstract). The cited art also teaches data needed for downloading the program (see Abstract). Therefore, this information clearly teaches a condition necessary for the method in the prior art. Accordingly, by configuring the cited data, it would have been obvious to one of ordinary skill in the art that the processor receiving the data is configured as well.

Art Unit: 2182

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [US 6,282,711 B1] in view of in view of Bretscher [US 2001/0039569 A1], in further view of Carron et al. [US 4,724,521].

As for claim 5, the combination of prior art combines the information regarding the condition with the program itself (see Abstract). Furthermore, the cited art teaches a “package” including all the necessary information for the program, as well as the program itself (see Halpern et al., col. 3, lines 1-5). The combination of Halpern et al. in view of Bretscher does not explicitly teach a *compiler/linker*. Carron et al. teaches a compiler and linker (see col. 10, lines 58-60; col. 11, lines 2-8). Considering the disclosure by Carron et al., one of ordinary skill in the art would have been motivated to modify the combination of references by including a compiler/linker, since as indicated by Carron et al., these elements inherently produce a machine language version of the program (see col. 6, lines 64-68). Accordingly, the use of a compiler/linker for these purposes would have been obvious to one of ordinary skill in the art at the time the invention was made.

12. Claims 25-27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [US 6,282,711 B1] in view of Bretscher [US 2001/0039569 A1], in further view of applicant's admitted prior art [AAPA].

As for claim 25, the combination of Halpern et al. and Bretscher does not teach a system provided on a single integrated circuit chip. Nonetheless, in applicant's admission of prior art

Art Unit: 2182

[AAPA], an application for mobile telephones (single-chip systems; see pages 1-2) is disclosed. Accordingly, one of ordinary skill in the art at the time the invention was made would have been motivated to modify the combination of references by including applicant's admitted art [AAPA] in order to ensure compatibility (see Halpern et al., col. 2, line 49) as well as transmission continuity.

As for claim 26, Halpern et al. teaches a man/machine interface for communication between a processor and a user (see col. 3, lines 4, 39; col. 4, line 59).

As for claim 27, Halpern et al. teaches a visual interface (see col. 4, line 67).

As for claim 30, the combination of references does not teach a system provided on a single integrated circuit chip. Nonetheless, in applicant's admission of prior art [AAPA], an application for mobile telephones (single-chip systems; see pages 1-2) is disclosed. Accordingly, one of ordinary skill in the art at the time the invention was made would have been motivated to modify the combination of Halpern et al. and Bretscher in order to ensure compatibility (see Halpern et al., col. 2, line 49) as well as transmission continuity.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [US 6,282,711 B1] in view of Bretscher [US 2001/0039569 A1], in further view of Tevanian et al. [IDS].

Art Unit: 2182

Regarding claim 20, the combination of Halpern et al. and Bretscher does not teach providing a universally unique identifier for each of the programs and corresponding condition information. The combination of references does not teach integrating the universally unique identifier into the executable file along with the program and corresponding condition information. Nonetheless, identifiers are well known in the art. Tevanian et al. [IDS] teaches an identifier for a program file (see col. 8, lines 38-39, 46-52). Therefore, since identifiers are well known in the art, one of ordinary skill would have been motivated to use identifiers in order to distinguish each program and their corresponding condition information, as disclosed by the combination of disclosures.

Response to Arguments

14. Applicant's arguments with respect to claims 1-6, 9, 11, 20-30, and 33 have been considered but are moot in view of the new ground(s) of rejection.

As per claim 1, the newly cited combination of prior art teaches determining if a data processor satisfies platform requirements in order to download a specific program (see Bretscher). Therefore, the method resulting from the combination of references selects an available processor that satisfies the specified requirements, thus optimizing the downloading process.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Art Unit: 2182

- Srinivasan et al. [US 6,751,647 B1] teaches method and apparatus for automated data exchange.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel L. Casiano whose telephone number is 703-305-8301. The examiner can normally be reached on 9:30-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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02 August 2004.



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